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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,233	06/26/2003	Zdravko Kovac	A-9727E	4225

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MILES & STOCKBRIDGE PC
 1751 PINNACLE DRIVE
 SUITE 500
 MCLEAN, VA 22102-3833

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,233

Applicant(s)

KOVAC, ZDRAVKO

Examiner

Flemming Saether

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9, 10, 13-16, 20, 21, 24-29, 32, 33, 35, 36, 39-42, 46, 47, 50 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims withdrawn from consideration are 4,5,8,11,12,17-19,22,23,30,31,34,37,38,43-45,48,49 and 52-87.

Drawings

Election/Restrictions

Applicant's election of group I, species C in the reply filed on May 13, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 4, 5, 8, 11, 12, 17-19, 22, 23, 30, 31, 34, 37, 38, 43-45, 48, 49 and 52-87 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being nonelected, there currently being no allowable generic or linking claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 6, 7, 9, 10, 13-16, 20, 21, 24-29, 32, 33, 35, 36, 39-42, 46, 47, 50 and 51 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-35 and 37-62 of copending

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Application No. 10/606,238. Although the conflicting claims are not identical, they are not patentably distinct from each other because the applications are claiming the same subject matter and although the claims of the instant invention include the combination with the piece and/or bore such would be obvious since the combination is the intended use of the claims of the co-pending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, 9, 13-16, 20, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraus (US 4,558,494). Kraus discloses an assembly including a piece in the form of a bolt (column 2, line 26) and a device (4) wherein the device is capable of being received in a bore; the device comprising a cylindrical sleeve (10) with an inner surface having a series of circumferentially spaced fins (6) extending longitudinally therefrom, skewed a same circumferential direction and being thin in relation to its radial and axial dimensions. The sleeve and fins are formed of a single piece of the molded, resilient, and flexible plastic so as to be readily deflected. As seen in Figs. 2 and 4, the fins include at least one end having a conical or tapered shape which forms tapered ends to the fins which extend away from the end and inner surface of the sleeve and which in turn also forms the fins into a trapezoidal shape.

Claims 1-3, 6, 7, 13-16, 24-29, 32, 33, 39-42, 50 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Kassardjian (US 5,729,941). In considering the embodiment of Fig. 5, Kassardjian discloses an assembly comprising a piece in the form of a bolt (see Fig. 2), a body (201) having a bore (at 213) and a device (202) for holding the piece in the bore. The device comprising a cylindrical sleeve with an inner surface having a series of circumferentially spaced fins (207) extending longitudinally therefrom, skewed a same circumferential direction and being thin in relation to its radial and axial dimensions. The sleeve and fins are formed of a single piece of the molded, resilient, and flexible plastic so as to be readily deflected. As seen in Fig. 1, the fins (shown in phantom) extend the length of the sleeve and include at least one end (13) having a conical or tapered shape (column 2, lines 42-44) which forms tapered ends to the fins which extend away from the end and inner surface of the sleeve and which in turn also forms the fins into a trapezoidal shape. The device further includes an outer surface (at 212) which engages an inner surface of the bore (at 213) to retain the device, and piece, within the bore.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 27-29, 32, 33, 35, 39-42, 46, 50 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rückward (US 5,170, 984) in view of Kraus. Rückward discloses an assembly comprising a piece in the form of a bolt (not shown), a body (3) having a bore (6) and a device (4) for holding the piece in the bore. The device is shown as generally cylindrical with an outer surface engaging an inner surface of the bore and including fins (15) engaging the piece for holding the piece in the device and in the bore. The device further includes a flat end with the fins being tapered to form a trapezoidal shape and facilitate insertion of the piece. Rückward does not disclose the fin being skewed. Kraus discloses a device similar to Rückward but discloses the fins (6) to be skewed in a same direction. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to form the fins of Rückward to be skewed as disclosed in Kraus in order to facilitate engagement with the piece. The skewed fins would improve engagement since, as discussed in Kraus, the fins would not undergo permanent deformation.

Allowable Subject Matter

Claims 10, 21, 36 and 47 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and with appropriate action to avoid the double patenting. The following is an examiner's statement of reasons for indicating allowable subject matter: since the devices applied in the rejection are only

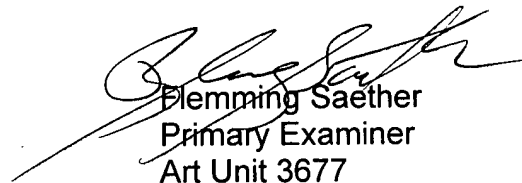
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for insertion into a bore from one end there would be not motivation to modify the ends to have a taper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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